



**SENATE AMENDMENT 14,
TO SENATE SUBSTITUTE AMENDMENT 1,
TO 1995 ASSEMBLY BILL 130**

September 21, 1995 – Offered by Senator ADELMAN.

- 1 At the locations indicated, amend the substitute amendment as follows:
- 2 **1.** Page 20, line 20: delete that line.
- 3 **2.** Page 21, line 9: after that line insert:
- 4 “SECTION 51m. 48.02 (18m) of the statutes is created to read:
- 5 48.02 (18m) “Truancy” has the meaning given in s. 118.16 (1) (c).”.
- 6 **3.** Page 25, line 24: delete that line.
- 7 **4.** Page 26, line 1: delete lines 1 to 6.
- 8 **5.** Page 28, line 12: delete lines 12 to 17.
- 9 **6.** Page 28, line 20: delete lines 20 to 25.
- 10 **7.** Page 29, line 1: delete lines 1 to 9.
- 11 **8.** Page 32, line 5: delete lines 5 to 11 and substitute:
- 12 “SECTION 128m. 48.21 (2) (intro.) and (c) of the statutes are amended to read:

1 48.21 **(2)** (title) PROCEEDINGS CONCERNING RUNAWAY OR DELINQUENT CHILDREN.
2 (intro.) Proceedings concerning a child who comes within the jurisdiction of the court
3 under s. ~~48.12 or 48.13 (7) or (12)~~ shall be conducted according to this subsection.

4 (c) Prior to the commencement of the hearing, the child shall be informed by
5 the judge or juvenile court commissioner of the allegations that have been or may be
6 made, the nature and possible consequences of this hearing as compared to possible
7 future hearings, ~~the provisions of s. 48.18 if applicable~~, the right to counsel under s.
8 48.23 regardless of ability to pay if the child is not yet represented by counsel, the
9 right to remain silent, the fact that the silence may not be adversely considered by
10 the judge or juvenile court commissioner, the right to confront and cross-examine
11 witnesses and the right to present witnesses.

12 **SECTION 129m.** 48.21 (3) (intro.) of the statutes is amended to read:

13 48.21 **(3)** PROCEEDINGS CONCERNING CHILDREN IN NEED OF PROTECTION OR
14 SERVICES. (intro.) Proceedings concerning a child who comes within the jurisdiction
15 of the court under s. 48.13 (1) to (5) ~~or~~, (8) to ~~(11)~~ (11m) or (13) shall be conducted
16 according to this subsection.”.

17 **9.** [Page 37, line 10](#): delete that line and substitute:

18 “**SECTION 154m.** 48.245 (2) (a) 6. a. of the statutes is amended to read:

19 48.245 **(2)** (a) 6. a. That the child participate in a supervised work program if
20 the child has attained the age of 12 and the county has a supervised work program
21 in accordance with s. ~~48.34~~ 48.345 (9) (a). The supervised work program shall be of
22 a constructive nature designed to promote the rehabilitation of the child, shall be
23 appropriate to the age level and physical ability of the child and shall be combined
24 with counseling from a member of the staff of the county department or community

1 agency or other qualified person. The program may not conflict with the child's
2 regular attendance at school. Subject to subd. 6. c., the amount of work required shall
3 be reasonably related to the seriousness of the child's offense.".

4 **10.** Page 37, line 12: delete lines 12 to 14.

5 **11.** Page 37, line 17: delete that line.

6 **12.** Page 53, line 11: delete lines 11 to 23 and substitute:

7 "SECTION 216m. 48.32 (1) of the statutes is amended to read:

8 48.32 (1) At any time after the filing of a petition for a proceeding relating to
9 s. ~~48.12~~ or 48.13 and before the entry of judgment, the judge or juvenile court
10 commissioner may suspend the proceedings and place the child under supervision
11 in the child's own home or present placement. The court may establish terms and
12 conditions applicable to the parent, guardian or legal custodian, and to the child,
13 including any conditions specified in subs. ~~(1d), (1g)~~ and sub. (1t). The order under
14 this section shall be known as a consent decree and must be agreed to by the child
15 if 12 years of age or older; the parent, guardian or legal custodian; and the person
16 filing the petition under s. 48.25. ~~If the consent decree includes any conditions~~
17 ~~specified in sub. (1g), the consent decree shall include provisions for payment of the~~
18 ~~services as specified in s. 48.361.~~ The consent decree shall be reduced to writing and
19 given to the parties.".

20 **13.** Page 54, line 2: delete that line and substitute:

21 "SECTION 220m. 48.32 (1t) (a) of the statutes is repealed.

22 **SECTION 220p.** 48.32 (1t) (b) 1. of the statutes is renumbered 48.32 (1t) (a) and
23 amended to read:

1 48.32 (1t) (a) The court or juvenile court commissioner may require a child to
2 participate in a supervised work program, as a condition of the consent decree, if the
3 child has attained the age of 12 and the county has a supervised work program in
4 accordance with s. 48.34 ~~48.345~~ (9) (a). The supervised work program shall be of a
5 constructive nature designed to promote the rehabilitation of the child, shall be
6 appropriate to the age level and physical ability of the child and shall be combined
7 with counseling from a member of the staff of the county department or community
8 agency or other qualified person. The program may not conflict with the child’s
9 regular attendance at school. Subject to ~~subd. 3.~~ par. (c), the amount of work required
10 shall be reasonably related to the seriousness of the child’s offense.

11 **SECTION 220r.** 48.32 (1t) (b) 2. and 3. of the statutes are renumbered 48.32 (1t)
12 (b) and (c).”.

13 **14.** Page 57, line 17: delete lines 17 and 18 and substitute:

14 “**SECTION 256m.** 48.34 (9) (a), (b) and (c) of the statutes are renumbered 48.345
15 (9) (a), (b) and (c).

16 **SECTION 256r.** 48.34 (9) (d) of the statutes, as affected by 1995 Wisconsin Act
17 22, is renumbered 48.345 (9) (d) and amended to read:

18 48.345 (9) (d) Under this subsection, a court may not order a child who is 12
19 or 13 years of age to perform more than 40 total hours of community service work,
20 except as provided in ~~subs. (7m) and (7r)~~.”.

21 **15.** Page 58, line 25: delete that line and substitute:

22 “**SECTION 276m.** 48.345 (2) of the statutes is renumbered 48.345 (16) and
23 amended to read:

1 48.345 (16) If the judge finds that a child is in need of protection or services
2 based on the fact that the child is a school dropout, as defined in s. 118.153 (1) (b),
3 or based on habitual truancy, and the judge also finds that the reason the child has
4 dropped out of school or is a habitual truant is a result of the child's intentional
5 refusal to attend school rather than the failure of any other person to comply with
6 s. 118.15 (1) (a), the judge, instead of or in addition to any other disposition imposed
7 under sub. (1) this section, may enter an order permitted under s. ~~48.342~~ 938.342.”.

8 **16.** Page 60, line 19: after that line insert:

9 “**SECTION 288m.** 48.355 (6m) of the statutes is created to read:

10 48.355 (6m) SANCTIONS FOR VIOLATION OF ORDER: HABITUAL TRUANCY. (a) If a child
11 who has been found in need of protection or services based on habitual truancy from
12 school violates a condition specified under sub. (2) (b) 7., the court may order as a
13 sanction any combination of the operating privilege suspension specified in this
14 paragraph and the dispositions specified in s. 938.342 (1) (b) to (f) and (1m),
15 regardless of whether the disposition was imposed in the order violated by the child,
16 if at the dispositional hearing under s. 48.335 the court explained that condition to
17 the child and informed the child of the possible sanctions under this paragraph for
18 a violation or if before the violation the child has acknowledged in writing that he or
19 she has read, or has had read to him or her, that condition and those possible
20 sanctions and that he or she understands that condition and those possible
21 sanctions. The court may order as a sanction suspension of the child's operating
22 privilege, as defined under s. 340.01 (40), for not more than one year. If the child does
23 not hold a valid operator's license under ch. 343, other than an instruction permit
24 under s. 343.07 or a restricted license under s. 343.08, on the date of the order issued

1 under this paragraph, the court may order the suspension to begin on the date that
2 the operator’s license would otherwise be reinstated or issued after the child applies
3 and qualifies for issuance or 2 years after the date of the order issued under this
4 paragraph, whichever occurs first. If the court suspends an operating privilege
5 under this paragraph, it shall immediately take possession of the suspended license
6 and forward it to the department of transportation with a notice stating the reason
7 for and the duration of the suspension.

8 (b) A motion for the imposition of a sanction under par. (a) may be brought by
9 the person or agency primarily responsible for providing dispositional services to the
10 child, the administrator of the school district in which the child is enrolled or resides,
11 the district attorney, the corporation counsel or the court that entered the
12 dispositional order. If the court initiates the motion, that court is disqualified from
13 holding a hearing on the motion. Notice of the motion shall be given to the child,
14 guardian ad litem, counsel, parent, guardian, legal custodian and all parties present
15 at the original dispositional hearing.

16 (c) Before imposing a sanction under par. (a), the court shall hold a hearing at
17 which the child is entitled to be represented by legal counsel and to present evidence.
18 The hearing shall be held within 15 days after the filing of a motion under par. (b).”.

19 **17.** [Page 92, line 18](#): delete lines 18 to 25.

20 **18.** [Page 93, line 1](#): delete lines 1 to 25.

21 **19.** [Page 94, line 1](#): delete lines 1 to 25.

22 **20.** [Page 95, line 1](#): delete lines 1 to 20 and substitute:

23 **“SECTION 413m.** 51.15 (1) (a) (intro.) of the statutes is amended to read:

1 51.15 (1) (a) (intro.) A law enforcement officer or other person authorized to
2 take a child into custody under ch. 48 or 938 may take an individual into custody if
3 the officer or person has cause to believe that such individual is mentally ill, drug
4 dependent or developmentally disabled, and that the individual evidences any of the
5 following:

6 **SECTION 414m.** 51.20 (1) (a) 2. b. of the statutes is amended to read:

7 51.20 (1) (a) 2. b. Evidences a substantial probability of physical harm to other
8 individuals as manifested by evidence of recent homicidal or other violent behavior,
9 or by evidence that others are placed in reasonable fear of violent behavior and
10 serious physical harm to them, as evidenced by a recent overt act, attempt or threat
11 to do serious physical harm. In this subd. 2. b., if the petition is filed under a court
12 order under s. ~~48.30~~ 938.30 (5) (c) 1. or (d) 1., a finding by the court exercising
13 jurisdiction under ~~ch. chs. 48 and 938~~ that the child committed the act or acts alleged
14 in the petition under s. ~~48.12 or 48.13 (12)~~ 938.12 or 938.13 (12) may be used to prove
15 that the child exhibited recent homicidal or other violent behavior or committed a
16 recent overt act, attempt or threat to do serious physical harm.”.

17 **21.** Page 104, line 13: delete lines 13 to 20 and substitute:

18 **“SECTION 434m.** 102.07 (13) of the statutes, as affected by 1995 Wisconsin Act
19 24, is amended to read:

20 102.07 (13) A child performing uncompensated community service work as a
21 result of an informal disposition under s. 48.245, a deferred prosecution agreement
22 under s. 938.245, a consent decree under s. 48.32 or 938.32 or an order under s. ~~48.34~~
23 ~~(9)~~ 48.345 (9) or 938.34 (5g) is an employe of the county in which the court ordering

1 the community service work is located. No compensation may be paid to that
2 employe for temporary disability during the healing period.”

3 **22.** Page 113, line 11: delete lines 11 to 24.

4 **23.** Page 114, line 1: delete lines 1 to 23 and substitute:

5 “**SECTION 460m.** 118.16 (4) (e) of the statutes, as affected by 1995 Wisconsin Act
6 27, is amended to read:

7 118.16 (4) (e) Except as provided under s. 119.55, a school board may establish
8 one or more youth service centers for the counseling of children who are taken into
9 custody under s. 48.19 (1) (d) ~~9.~~ or 10. for being absent from school without an
10 acceptable excuse under s. 118.15.

11 **SECTION 461m.** 118.16 (5) (intro.) of the statutes is amended to read:

12 118.16 (5) (intro.) ~~Prior to~~ Except as provided in sub. (5m), before any
13 proceeding being brought against a child under s. 48.13 (6) for habitual truancy or
14 under s. 938.125 (2) or 938.17 (2) for a violation of an ordinance under s. 118.163 (2)
15 or against the child’s parent or guardian under s. 118.15 for failure to cause the child
16 to attend school regularly, the school attendance officer shall provide evidence that
17 appropriate school personnel in the school or school district in which the child is
18 enrolled have, within the school year during which the truancy occurred, done all of
19 the following:”.

20 **24.** Page 115, line 14: delete lines 14 to 24.

21 **25.** Page 116, line 1: delete lines 1 and 2 and substitute:

22 “**SECTION 465m.** 118.16 (6) of the statutes is amended to read:

23 118.16 (6) ~~Following receipt of~~ If the school attendance officer receives evidence
24 that activities under sub. (5) have been completed or were not completed due to the

1 child's absence from school as provided in sub. (5m), the school attendance officer
2 may file information on any child who continues to be truant with the court assigned
3 to exercise jurisdiction under ~~ch. chs. 48 and 938~~ in accordance with s. 48.24. Filing
4 information on a child under this subsection does not preclude concurrent
5 prosecution of the child's parent or guardian under s. 118.15 (5).”.

6 **26.** Page 116, line 17: delete lines 17 to 25.

7 **27.** Page 117, line 1: delete lines 1 to 6 and substitute:

8 “**SECTION 471m.** 120.12 (18) of the statutes is amended to read:

9 120.12 (18) CONTINUITY OF EDUCATIONAL PROGRAMMING. Coordinate and provide
10 for continuity of educational programming for pupils receiving educational services
11 as the result of a court order under s. 48.34 (12) 48.345 (12) or 938.34 (7d), including
12 but not limited to providing a ~~written~~ report to the court assigned to exercise
13 jurisdiction under ~~ch. chs. 48 and 938~~ and the agency which is required to submit an
14 educational plan for a child under s. 48.33 (1) (e) or 938.33 (1) (e). The ~~written~~ report
15 shall describe the child's educational status and make recommendations regarding
16 educational programming for the child. The ~~written~~ report shall be in writing, except
17 that if the educational plan under s. 48.33 (1) (e) or 938.33 (1) (e) is presented orally
18 at the dispositional hearing the report may be presented orally to the court assigned
19 to exercise jurisdiction under chs. 48 and 938 and the agency at the dispositional
20 hearing. If written, the report shall be provided to the court assigned to exercise
21 jurisdiction under ~~ch. chs. 48 and 938~~ and the agency at least 3 days before the date
22 of the child's dispositional hearing.”.

23 **28.** Page 172, line 6: delete that line.

24 **29.** Page 174, line 16: delete that line.

1 **30.** Page 187, line 21: delete lines 21 to 24.

2 **31.** Page 188, line 1: delete lines 1 to 7.

3 **32.** Page 203, line 7: delete lines 7 to 16 and substitute:

4 “8. The juvenile has violated a civil law or a local ordinance punishable by a
5 forfeiture, except that in that case the juvenile shall be released immediately under
6 s. 938.20 (2) (ag) or as soon as reasonably possible under s. 938.20 (2) (b) to (d).”.

7 **33.** Page 204, line 5: delete lines 5 to 8 and substitute:

8 “**938.20 Release or delivery from custody.** (2) (ag) Except as provided in
9 pars. (b) to (d), a person taking a juvenile into custody shall make every effort to
10 release the juvenile immediately to the juvenile’s parent, guardian or legal
11 custodian.”.

12 **34.** Page 204, line 22: delete lines 22 to 25.

13 **35.** Page 205, line 1: delete lines 1 to 25.

14 **36.** Page 206, line 1: delete lines 1 to 18 and substitute:

15 “(3) If the juvenile is released under sub. (2) (b) to (d), the person who took the
16 juvenile into custody shall immediately notify the juvenile’s parent, guardian and
17 legal custodian of the time and circumstances of the release and the person, if any,
18 to whom the juvenile was released. If the juvenile is not released under sub. (2), the
19 person who took the juvenile into custody shall arrange in a manner determined by
20 the court and law enforcement agencies for the juvenile to be interviewed by the
21 intake worker under s. 938.067 (2), and shall make a statement in writing with
22 supporting facts of the reasons why the juvenile was taken into physical custody and
23 shall give any juvenile 10 years of age or older a copy of the statement in addition to

1 giving a copy to the intake worker. When the intake interview is not done in person,
2 the report may be read to the intake worker.”.

3 **37.** Page 214, line 8: delete lines 8 to 10 and substitute:

4 “(2) PROCEEDINGS CONCERNING DELINQUENT JUVENILES. Proceedings concerning
5 a juvenile who comes within the jurisdiction of the court under s. 938.12 shall be
6 conducted according to this subsection.”.

7 **38.** Page 215, line 7: delete lines 7 to 25.

8 **39.** Page 216, line 1: delete lines 1 to 4.

9 **40.** Page 230, line 4: delete lines 4 to 8 and substitute:

10 “**938.243 Basic rights: duty of intake worker.** (1) Before conferring with
11 the juvenile during the intake inquiry, the intake worker shall personally inform a
12 juvenile alleged to have committed a delinquent act of all of the following:”.

13 **41.** Page 230, line 13: delete lines 13 to 16 and substitute:

14 “(c) The right to remain silent and the fact that in a delinquency proceeding the
15 silence of the juvenile shall not be adversely considered by the court.

16 (d) The right to confront and cross-examine those appearing against him or
17 her.”.

18 **42.** Page 230, line 19: delete lines 19 to 22 and substitute:

19 “(h) The right to have the allegations of the petition proved beyond a reasonable
20 doubt.”.

21 **43.** Page 231, line 7: delete lines 7 to 13 and substitute:

22 “(3) If the juvenile has not had a hearing under s. 938.21 and was not present
23 at an intake conference under s. 938.24, the intake worker shall inform the juvenile
24 of his or her basic rights under this section. This notice shall be given verbally, either

1 in person or by telephone, and in writing. This notice shall be given so as to allow
2 the juvenile sufficient time to prepare for the plea hearing. This subsection does not
3 apply to cases of deferred prosecution under s. 938.245.”

4 **44.** Page 238, line 3: delete “938.13 or”.

5 **45.** Page 239, line 17: delete lines 17 to 24.

6 **46.** Page 240, line 20: delete lines 20 to 25 and substitute:

7 “(e) If the juvenile is alleged to come within the provisions of s. 938.13 (14) or
8 938.14, reliable and credible information which forms the basis of the allegations
9 necessary to invoke the jurisdiction of the court and to provide reasonable notice of
10 the conduct or circumstances to be considered by the court together with a statement
11 that the juvenile is in need of supervision, services, care or rehabilitation.”

12 **47.** Page 242, line 1: delete lines 1 to 23 and substitute:

13 “(3) The court shall also notify, under s. 938.273, the juvenile and any parent,
14 guardian and legal custodian of the juvenile of all hearings involving the juvenile
15 under this subchapter, except hearings on motions for which notice need only be
16 provided to the juvenile and his or her counsel. Where parents entitled to notice have
17 the same place of residence, notice to one shall constitute notice to the other. The first
18 notice to any interested party shall be written and have a copy of the petition
19 attached to it. Thereafter, notice of hearings may be given by telephone at least 72
20 hours before the time of the hearing. The person giving telephone notice shall place
21 in the case file a signed statement of the time notice was given and the person to
22 whom he or she spoke.”

23 **48.** Page 258, line 19: delete lines 19 to 25.

24 **49.** Page 259, line 1: delete lines 1 to 8.

- 1 **50.** Page 265, line 18: delete lines 18 to 22 and substitute:
2 **“938.31 Fact-finding hearing. (1)** In this section, “fact-finding hearing”
3 means a hearing to determine if the allegations of a petition under s. 938.12 or 938.13
4 (12) are supported beyond a reasonable doubt or a hearing to determine if the
5 allegations in a petition or citation under s. 938.125 or 938.13 (14) are proved by clear
6 and convincing evidence.”.
- 7 **51.** Page 310, line 12: delete “(1)”.
- 8 **52.** Page 310, line 16: delete “(a)” and substitute “(1)”.
- 9 **53.** Page 310, line 18: delete “(c)” and substitute “(3)”.
- 10 **54.** Page 310, line 19: delete lines 19 and 20 and substitute:
11 “(4) Restrict, suspend or revoke the driving privileges of the juvenile.”.
- 12 **55.** Page 310, line 21: delete “(e)” and substitute “(5)”.
- 13 **56.** Page 310, line 24: delete “(g)” and substitute “(7)”.
- 14 **57.** Page 311, line 1: delete lines 1 to 7.
- 15 **58.** Page 324, line 17: delete lines 12 to 25.
- 16 **59.** Page 325, line 1: delete lines 1 to 25.
- 17 **60.** Page 339, line 3: delete lines 3 to 7 and substitute:
18 **“938.365 Extension of orders.”**.
- 19 **61.** Page 340, line 12: delete lines 12 to 25.
- 20 **62.** Page 341, line 1: delete lines 1 and 2.

21

(END)